

REMARKS

In response to the above-identified Office Action, Applicants submit the following remarks and seek reconsideration. In this response, no claims have been added, no claims have been canceled, and no claims have been amended. Accordingly, Claims 1-37 are pending.

I. Claims Rejected Under 35 U.S.C. §103

The Examiner has rejected Claims 1, 11, 12 and 20 under 35 U.S.C. §103 as being unpatentable over Bellinger et al., U.S. Patent No. 6,023,705 ("Bellinger") in view of Fisher et al., U.S. Patent No. 6,092,189 ("Fisher"). Applicants respectfully traverse this rejection.

At the outset, Applicants note that neither of the references relied upon are listed on the notice of references cited attached to the above-identified Office Action. In any event, Applicants respectfully submit that the references fail to teach or suggest what Applicants claim.

Applicants have reviewed the cited passages (Col. 12, lines 15-41 and Col. 15, lines 8-12) from Bellinger and submit that it is no more than an assertion that a flatbed scanner can be attached to the computer system. There is no indication in the cited passage, or elsewhere that Applicants have been able to identify in Bellinger, of monitoring the state of image capture system during image capture as claimed. The Examiner acknowledges that no other portion of the independent claims are found in Bellinger. However, the Examiner attempts to rely on Fisher to cure these deficiencies. However, Fisher is unrelated to image capture at all. Rather, Fisher is related to installation of software in a secure manufacturing facility. The passage of Fisher cited by the Examiner has absolutely nothing to do with an image much less the state of an image capture system during the capture of an image. Moreover, there is no teaching or

suggestion in Fisher of how one might identify from the record of a captured image that no unauthorized state change occurred during capture. Applicants further submit that the combination could only have been arrived at through in appropriate hindsight. At least for these reasons, the rejection of Claims 1, 11, 12 and 20 should be withdrawn.

The Examiner rejects Claims 13-15 under 35 U.S.C. §103 as being unpatentable over Bellinger in view of official notice. Applicants submit that inasmuch as these claims depend on Claim 12 for which the Examiner relied on Fisher, this rejection is necessarily in error. However, for purposes of this response, Applicants will assume that the Examiner has intended to reject Claims 13-15 under 35 U.S.C. §103 as being unpatentable over Bellinger in view of Fisher in further view of official notice.

Applicants challenge the official notice taken by the Examiner in this instance. There is no evidence of record nor any clearly discernable basis for the Examiner's assertion that the features of Claim 13, 14 and 15 are common knowledge as applied to captured image data. Thus, it is incumbent on the Examiner to find a reference for these features or withdraw the rejection.

ALLOWABLE SUBJECT MATTER

Applicants note with appreciation the Examiner's indication that Claims 2-10, 16-19 and 21-37 contain allowable subject matter.

CONCLUSION

In view of the foregoing, it is believed that all claims remaining to be examined, namely claims 1-37 patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in

moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207-3800.

Respectfully submitted,

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Date: October 20, 2005

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Post Service as first class mail in an envelope with sufficient postage addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on: October 20, 2005.

Susan M. Barrette 10/20/05
Susan M. Barrette Date